

DEVIN DERHAM-BURK #104353
CHAPTER 13 STANDING TRUSTEE
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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA - DIVISION 5**

IN RE:

GIAMBRUNO, DAVID JOSEPH

Debtor

CHAPTER 13 CASE NO. 12-50664 ASW

**DECLARATION OF TRUSTEE IN
SUPPORT OF MOTION TO DISMISS
FOR NON-PAYMENT (PRE-
CONFIRMATION) PURSUANT TO
11 U.S.C. §1307(c)(1)**

Judge: Hon. Arthur S. Weissbrodt

I, Devin Derham-Burk, Chapter 13 Standing Trustee, declare:

1. I am an attorney at law, duly licensed to practice before this Court and the duly appointed Chapter 13 Standing Trustee ("Trustee") in this matter.

2. As the Trustee, I have direct knowledge of the following facts. Where I do not have direct knowledge of facts, I have knowledge based upon contemporaneous electronic and written

1 records that I maintain in prosecution of my duties as the Standing Trustee. An integral part of
2 my work duties includes the supervision of the Standing Trustee's employees, together with
3 maintenance and control of the Standing Trustee's computer system. All information recorded
4 into the computer system is recorded contemporaneously with all transactions. Additionally, the
5 computer system maintains an accurate balance of funds received from debtors and
6 disbursements made to creditors. Debtor payments are generally posted on the computer system
7 no later than forty-eight (48) hours after they are received. The information, which I attest to
8 herein, is derived from these sources. I am competent to attest thereto as the custodian of the
9 Standing Trustee's records.
10

11 3. The latest proposed plan filed in this case calls for monthly plan payments of \$1,020.
12 [Docket #34]. The debtor is current on plan payments through February 2012. The debtor
13 would need to make a payment to my office in the amount of \$14,280 to be current through April
14 2013. Creditors are prejudiced by the debtor's delay because they are not receiving payments
15 while the debtor enjoys the benefit of bankruptcy protection in this proceeding. In addition, I am
16 concerned that the debtor does not have the ability to make all payments under the plan as
17 required by 11 U.S.C. §1325(a)(6).
18

19 I declare under penalty of perjury under the laws of the State of California that the
20 foregoing is true and correct to the best of my knowledge, information and belief.
21

22 Executed on this 1st day of May, 2013 at Los Gatos, California.
23

24
25 /s/ Devin Derham-Burk
26 Chapter 13 Standing Trustee
27
28